

State of New-York.

No. 3.

IN ASSEMBLY, JAN. 2, 1855.

GOVERNOR'S MESSAGE.

To the Senate and Assembly:

FELLOW CITIZENS:—In obedience to the requirements of the Constitution, I hereby submit for your consideration an account of the financial condition of the State, its various institutions and interests, together with such remarks as they suggest, and as seem to me appropriate.

The receipts on account of the General Fund during the last fiscal year, were \$1,955,527.42; and the payments during the same period, were \$1,817,850.98. At the close of the fiscal year ending Sept. 30, 1853, there was a deficiency in the revenue of this fund \$419,212.96; this has been reduced during the past year \$140,158.58, and the deficiency on the 30th of Sept., 1854, was \$279,054.38. This reduction has been effected by the increase in the State tax, which was raised from one-quarter of a mill to one mill on the dollar by the Legislature of 1853; over half the amount thus raised, however, \$657,145.86, was paid in accordance with the requirements of the law, to the Auditor of the Canal Department, for the payment of debts due to contractors, for damages, &c. During the next fiscal year the State tax will be only three-quarters of a mill on the dollar; and according to the estimates of the Comptroller, the income of the General Fund will not be sufficient to meet the ordinary expenses of the government, including the indebtedness of the State prisons—so that the deficiency now existing will be still further increased.

The receipts of the General Fund during the past year include the sum of \$200,000, out of the surplus revenues of the canals, after meeting previous demands upon them, made by the Constitution, to the amount of \$1,650,000. By the amendment of the Constitution adopted in 1853, authorizing loans for the completion of the enlargement of the State canals, there is set apart out of these revenues such additional sum, as shall be sufficient to pay the interest as it falls due, and extinguish the principal in eighteen years, of any loans that may be made for the purpose specified. This provision will increase the sum payable out of the surplus revenues of the canals, before the General Fund can receive any benefit from them, to \$1,940,820, during the coming, and to a still larger amount during each succeeding year. Under these circumstances there is some reason to apprehend, that the large contribution, hitherto made to the General Fund from the canal revenues, must be suspended, and that the deficiency in that fund must be correspondingly increased. The Legislature will, therefore, perceive the necessity of more than ordinary economy in the appropriations they may make for any of the various objects, that will solicit their attention.

These deficiencies in the General Fund have hitherto been paid out of moneys in the treasury, belonging to the several funds, held by the State in trust,—the amount due those funds on the 30th of September, 1854, and constituting a debt against the State, was \$108,770.77, above the available means in the treasury. The condition of the General Fund, as well as the custom that has become uniform, of appropriating the capital of Trust Funds, held by the State and declared by the Constitution to be inviolable, to meet its deficiencies, demand the attention of the Legislature.

The debt of the General Fund on the 30th of September last was \$6,355,654.37. In the Sinking Fund provided by the Constitution for the extinguishment of this debt, there is a deficiency for the past fiscal year of \$11,568.68, which is likely to be still further increased.

The capital of the School Fund at the close of the fiscal year was \$2, 425,211.97 ; which is an increase of \$41,954.74 during

he year. The receipts on [account of the revenue of this fund were \$144,116.97. The capital of the Literature Fund is \$268,620.12, and the revenue received from it during the year was \$16,332.14. The capital of the United States Deposit Fund is \$4,014,520.71, and the receipts on account of its revenue were \$257,699.08.

The receipts of the State canals from tolls, rent of surplus waters and interest on current canal revenues, during the past year, amounted to \$2,988,665.21—and the aggregate expenditures for repairs, superintendence, &c., were \$1,237,865.20. The surplus revenue was thus only \$1,750,799.01. In accordance with the requirements of the Constitution, the sum of \$1,944,861.72 has been set apart for the various purposes specified in that instrument, including \$200,000 towards the expenses of the State government. There is a deficiency, therefore, in the revenues of the canals, of \$194,062.71. This result is due to a variety of causes, some of which, it may reasonably be hoped, will not again occur, while others may be remedied by judicious legislation. The commercial embarrassments of the country, a severe and unusual drought followed by short crops, navigation often impeded by want of water and difficult from the incompleteness of its channels, and the active rivalry of competing modes of transportation, have combined to diminish the business and the revenues of these great State works; while a large increase in the expenditures for repairs, partly due, without doubt, to inconsiderate and mischievous legislation, and other causes, has increased the expenses far beyond a proper limit. It is hoped that these causes of embarrassment and of loss to the canals may be removed; but without a much larger increase in the revenues than can reasonably be expected, there will not only be no surplus to be appropriated to the work of enlargement, but the usual contribution to the General Fund, must be withheld. There is no good reason to apprehend any inability to make all the payments to the Sinking Funds required by the Constitution so that the credit of the State will not be in the least degree impaired.

The loan of \$2,250,000 made for the purposes of the enlargement realized a premium of \$342,952.77. The total amount of

contracts entered into for work on the enlargement of the several canals, is \$4,538,741.84, at prices averaging over 21 per cent less than the estimates of the engineers. The report of the Auditor of the Canal Department contains much information and many suggestions on the general subject well worthy of your attention.

From the records of the Banking Department it appears that fifteen banking associations have been organized, and eight individual bankers have deposited securities and received circulating notes, during the last fiscal year. The total amount of circulating notes issued to banking associations and individual bankers, and outstanding on the 30th September, 1854, was \$24,661.572, for the redemption of which there was held in trust by the Superintendent securities amounting to \$25,962.160, of which \$6,718,248.11 was in bonds and mortgages. The whole number of banks, banking associations and individual bankers in the State was 334; the amount of circulation was \$43,962,535; and the whole amount of banking capital was \$83,773,288; being an increase of \$7,081,213 over the previous year. Notwithstanding the extraordinary financial embarrassments of the year, the banks of the State, with but few exceptions, have promptly met their liabilities to the bill holders and the public. The cases in which failures have occurred, afford renewed evidence of the comparative insecurity of allowing bonds and mortgages to be received at their par value, as a basis for banking. During the past year there has been an increase in this class of securities of \$940,670.72, much of which has replaced State stocks that have been withdrawn. Inasmuch as the new issues of State stock authorized by the recent amendment of the Constitution, will furnish all the securities required for legitimate and healthy banking purposes, the attention of the Legislature may very properly be directed to the propriety of modifying the existing law in this respect. Abuses that have occurred in the appropriation by banks of discount of funds deposited in savings banks with which they are connected, suggest the necessity of some additional legislation for the more perfect security of that very large class of our people for whose benefit banks for savings are established by law. The details of the condition of the banking interests of the State will of course be set forth in the report of the Superintendent of the Banking Department.

The increasing importance of our penal institutions, not only entitles them to your continued watchful supervision, but demands a closer scrutiny of the system upon which they are conducted, with a view to such amendments as may be necessary to obviate its existing evils, and secure, through it, the highest good attainable. Such a classification of offences and of criminals, as should prevent the association of the young, unschooled in crime, and suffering, perhaps, for their first deviation from the path of rectitude, with hardened offenders who glory in their guilt, would conduce much to the reformation of the former, or at least prevent our prisons from being what they now too often are, schools of depravity. Under the existing organization of our prison, this much-needed discrimination cannot be exercised, and thus the reformatory influence which, under a better system, they might exert, is lost to the community; and they are made, in some sort, the instruments for perpetuating the vices which they are designed to restrain. How far, if at all, this evil can be obviated by further legislation, is worthy of your enquiry; and will receive, I doubt not, that measure of consideration which its importance demands.

The financial condition of our prisons will be presented to you by the Comptroller and the Inspectors of State Prisons. The frequent applications made to the Legislature for appropriations to discharge the pecuniary liabilities of these institutions, led to the adoption of a resolution, on the part of the Senate, last year, calling upon the several Inspectors to report the whole indebtedness of the prisons of the State. This was done; and it was found that their aggregate liabilities amounted, at the lowest estimate, to \$214,715.38. When it is remembered that but a few years since, the prisons were a source of revenue to the State, this vast indebtedness compels the conviction that those charged with their management were incompetent to the performance of their duties, or utterly unworthy the trust which had been confided to them.

The enormous discrepancy between the reports of the Inspectors and the annual exhibits of the respective agents, attracted the attention of the Legislature, which, at its last session, passed a bill directing the Comptroller to appoint three commissioners,

who should be charged with the duty of investigating the affairs of the prisons, and report thereon. The commissioners appointed under that act have not yet completed their labors, but will do so in time to make their report at an early period of the session. The evidence which they can present will enable you to judge what evils have existed, and what further measures, if any, are needed to prevent their recurrence. Under the law as amended by the last Legislature, the duties of agent were more minutely defined, and greater restrictions and safeguards thrown around them. These, under the administration of proper officers, may be sufficient to guard against the repetition of gross abuses. Should additional legislation be needed, however, any law that promises to secure more accuracy in the transaction of the business, and demands more rigid accountability from the officers of our penal institutions, will meet with my cordial approval.

The Auburn prison, under the operation of the amended law, has been enabled to more than meet its expenses during the past six months; and the accounts of the agent exhibit a large balance to his credit on the books of the Comptroller, notwithstanding the low rates at which contracts have been let, and the pressure to which all industrial enterprises have been subjected.

There is a great wrong involved in the operation of our existing law for the detention of witnesses. Under its provisions, the person who has been so unfortunate as to witness the perpetration of a murder, and who is unable to give bonds to testify to the facts in the case, is subject to the same confinement, the same diet, and the same associations, as he who is charged with the commission of the crime. Surely the ends of public justice cannot demand so gross an invasion of individual right. That a usage so unjust should have obtained, and continued until now, a foul blot upon our criminal code, reflects little credit upon our progressive civilization, and furnishes but indifferent demonstration of the maxim:—"Law is the perfection of human reason."

I trust that to direct your attention to this injustice, will be sufficient to secure its removal, by such modifications in the law referred to as will reconcile the rights of the individual with the interests of the public.

My immediate predecessor, in his last annual message, recommended that a portion of the earnings of prisoners, during the period of their incarceration, be reserved for their own use, in the following terms: "I suggest the propriety of allowing to convicts, as a reward for industry and good conduct, some portion of their earnings, for the benefit of themselves or their families. This would be calculated to animate them with hope, to create habits of foresight and prudence, and, by enabling them to assist their families, would cultivate the better instincts of their nature. It would also give them, at the expiration of their terms of imprisonment, some means of support until they could overcome the difficulties of obtaining employment. In numerous instances, discharged convicts are led to the commission of crime by the poverty and want consequent upon the prejudices which exist against them. Humanity and policy alike dictate that every encouragement should be afforded to these unfortunate persons to retrieve their past errors." This recommendation impresses me as both politic and right, and therefore worthy of your consideration.

The onerous, and still increasing burden thrown upon the Executive by the numerous petitions for pardon brought before him, demands the adoption of some measure by the Legislature that shall diminish the number of these applications, which, during the past year, amounted to no less than 1,200 cases, many of which required laborious and protracted investigation. The evil might, perhaps, be remedied in part by giving greater discretionary power to Judges, in the graduation of penalties according to the different degrees of turpitude that mark the crime; so that they will not be compelled to sentence the offender five or ten years, because the law arbitrarily fixes both the minimum and the maximum of the term, when one, two, or three, would be more proportioned to the offence, and equally beneficial. Such a modification of the statute, rendering it more accordant with equity, would also tend to the prevention of crime, by increasing the chances of its adequate punishment; for all experience has demonstrated that it is the certainty of the penalty, rather than its amount, that deters men from the violation of law.

The subject, I am aware, is one of much delicacy, and will demand the exercise of a sound discretion ; but I cannot doubt that the united wisdom of the Legislature will be able to devise a measure so much needed to check a growing evil, to equalize the allotments of justice, and to relieve the Executive of the State from a responsibility whose burdens are greatly disproportioned to the benefits that can accrue to the Commonwealth from its exercise.

The House of Refuge in New-York has been, during the past year, conducted with its usual efficiency and success. Some two months since, the Institution was removed to the new building recently erected on Randall's Island, which will give it more ample accommodations than it has hitherto enjoyed, and thus enable it to extend its operations and increase its usefulness. The managers design, as soon as they are enabled to do so, to erect an additional building for the female department. Until this is done, the contemplated system of classification and separation cannot be carried out. It is intended that the new building shall be of sufficient capacity to accommodate two hundred and fifty inmates; and the importance of its early construction will be evident, from the fact that this is the only reform school in the State for girls, receiving them from all the counties. It receives boys from only half the State.

Four hundred and thirteen children of both sexes have been admitted during the year; three hundred and eighty-three have been indentured; there now remain in the institution, 343 boys and 75 girls—total 418. The whole number admitted since its establishment, is 6,361.

The kindred institution at Rochester seems, also, in a prosperous condition. Its 'present number of inmates is 262; its sanitary state is satisfactory; there is a general compliance with its discipline on the part of the boys; and the moral results justify the most sanguine hopes of its friends. The appropriation made last year for the erection of an additional wing, and for the furnishing of the same, has been about half expended. The new wing has been erected and enclosed, and will be ready for occu-

pancy by the first of July. Some additional aid may be required from the State to furnish it, and also for the erection of gas works, for lighting the entire building. The report of the managers detailing more fully the condition of the Institution, will be laid before you at an early day.

The State lunatic asylum at Utica, is nobly fulfilling the purpose of its establishment, and justifying the confidence of the public in its official management. The whole number of patients treated during the past year, is 836 ; of these, 446 were in the Institution at the beginning of the year, and 390 have been subsequently admitted. The house, it is estimated, can accommodate 440 ; the average number resident during the year has been 444 ; while 108 applications for admission have been refused, for want of room, and 51 unfavorable cases removed, to make room for more recent ones ; showing a total of 159 to whom the benefits of the Institution could not be extended. Of these 836 cases treated during the year, 164 have been discharged as recovered ; 42 as improved, and 116 unimproved ; total, discharged, 386 ; remaining at the end of the year, 450. From the opening of the asylum in 1843, to the present date, 4,313 patients have been admitted to its benefits ; of whom 1,789 have been discharged as recovered.

While the benevolent design of this Institution is conceded by all, I deem it but simple justice to remark that its excellent management is evidenced by its general results, which must commend themselves to the favorable judgment of all. Since its establishment, each succeeding year has demonstrated its increasing usefulness, and given it a stronger hold upon the public regard. Through its instrumentality, nearly two thousand of our fellow-beings, deprived of the inestimable gift of reason, without which all blessings lose their value, have been restored to soundness of mind, the delights of social intercourse, and to their several spheres of usefulness in society. In numerous other cases, where full restoration was clearly beyond the province of human skill, the sufferings of the unfortunate patient have been greatly mitigated, and the anguish and anxiety of their friends materially relieved. Thus, through its whole existence, has the institution

been a dispenser of blessings, great beyond the power of estimation. Its results have not only justified the Christian philanthropy that suggested, and the beneficent provision which carried into practical operation so noble a charity, but have also conferred honor upon our Commonwealth, far greater than could have been won through the extension of her commerce, the increase of her wealth, or the reduction to her purposes of the material forces of nature.

But, while any of our unfortunate insane remain unprovided for, it is obvious that the State has not performed her whole duty towards her suffering children. If, during the past year, the Asylum at Utica has been compelled, for want of room, to reject 159 applicants for its benefits, we must expect, with an increase of our population, a corresponding increase of cases for which no provision is made; and a wise forethought will suggest that prompt measures be taken to remedy so serious a deficiency in our means of accommodating all whose misfortunes give them a claim upon our sympathy and help. I do therefore respectfully recommend that the requisite steps be taken by the Legislature, for the early enlargement of the Asylum at Utica, or the establishment of a similar Institution in some other portion of the State. Both projects may be desirable; one or the other seems indispensable.

I would commend to your attention the report of the trustees of the Idiot asylum, which, since the adjournment of the Legislature, has been located at Syracuse. The new building designed for the accommodation of this important charity, is already enclosed, and rapidly approaching its completion; but the appropriation of the State (\$10,000) is expended, the pay of the contractors largely in arrears, and numerous applications for the admission of pupils pressing upon the trustees. Under these circumstances, it is important that the means for the completion of the building, and for extending its benefits to all of that unfortunate class who may apply for them, be furnished without any unnecessary delay. I therefore recommend such appropriation for these purposes as may be requisite to secure the earliest practical results contemplated by the State in the establishment of this institution.

Application will be made to the Legislature for further aid to the Institution for the blind, which now feels the pressure consequent upon the general paralysis of business. Its manufacturing department is designed to furnish employment not only for the pupils but also for the adult blind unconnected with the institution; but, from the cause already alluded to, there is little or no sale for its manufactures, and great pecuniary embarrassment is the necessary result. The usefulness of this department of the institution would undoubtedly be extended by such judicious aid as should place it beyond the fluctuations of business.

The present number of pupils in the institution is 141; 116 of whom are supported by the State, a few by the State of New Jersey, and the remainder by friends and relatives. In addition to these, 69 graduates, or persons who have lost their sight in mature life, are furnished with work from the manufactory at prices regulated with a view to their support; making a total of 210 who receive education or the means of subsistence through the institution. The number of pupils supported by the State is limited by law to 128. This restriction should be removed or many of the unfortunate class for whom the institution is provided must be deprived of its benefits.

From the Institution for the instruction of the deaf and dumb, the reports received are of a satisfactory character, both in reference to its facilities for attaining the purpose designed, and the zeal and assiduity of the teachers in the discharge of their delicate and important duties.

The number of pupils now under instruction is 280. Two-thirds of these are beneficiaries of the State; the most of the remainder are supported by their friends, the State of New Jersey, and the corporation of New-York; a few from the income of a small fund derived from legacies and subscriptions, and set apart exclusively for this purpose.

Various industrial occupations are provided for the pupils, in the intervals of recreation and study, among which are cabinet making, shoe-making, tailoring, book-binding, gardening, wood engraving,

drawing, &c.—thus not only furnishing to them a subject of present interest, but preparing them for future usefulness and the means of independent support. The experiment attempted two years since to introduce the higher branches of study into the Institution has been attended with success, as will be evidenced by the documents which, in due time, will be submitted to you. These will also embrace accounts of receipts and expenditures, the sanitary condition of the pupils, and other matters pertaining to the condition of the establishment.

From a statement of the Commissioners of Emigration, it appears that the arrival of alien emigrants in our ports, for the year ending December 27, 1854, was 313,747. For the year ending December 27, 1853, 283,332, showing an excess of the year just closed over the preceding, of 30,415. The present number of inmates in Ward's Island hospital, 1,423; in the refuge department, 1,832, total 3,255. The aggregate receipts for the year, were \$672,192.56; disbursements, \$607,076.62; balance in bank \$65,115 94.

The State Library has, during the last year, received numerous and valuable donations from foreign governments and various institutions in Europe. Through the presentation of our laws, the legislative documents, and the reports of our higher courts, it interchanges with every State and Territory in the Union; while the donations of citizens from various portions of our own country, have been frequent and liberal. Last year, the usual date of appropriations for the purchase of books, and for binding those received, was changed from the first of January to the first of October, the commencement of our fiscal year. No provision was made for the interim, and this has proved a source of difficulty in relation to existing contracts and purchases. I am assured that the supply of this deficiency (for nine months, according to the usual annual appropriation,) will be sufficient to meet every demand; I, therefore, recommend a grant for the same.

Among the subjects which will require your attention there is none of more importance than the system of public education of the State. The magnitude of this interest has always been felt

and appreciated by the people, and the State has shown from the earliest period of its existence, an earnest desire to provide the means for the adequate instruction of all the children within its limits. For a long time the system pursued was based on the assumption that education was mainly a matter of personal interest, and that the duty of providing it devolved exclusively upon parents; the instruction of the children of those whose poverty would not permit them to incur the expense of it themselves, being made to depend upon public charity. The inefficiency of this policy, its failure to accomplish the object aimed at, and especially its direct tendency to create distinctions hostile to the spirit and character of our institutions, led to its abandonment; and, a system, based upon the principle that the State is even more deeply and permanently interested in the education of its children than their parents, and that the expense of providing it should be borne by the aggregate of the property within its limits, was adopted in its stead. Under the existing law, therefore, the State assumes the charge of public education,—committing its direction to local officers and paying the cost of it out of its own treasury. The system is comparatively new, and some practical defects are as yet exhibited in its workings; but they are such as spring chiefly from the failure to give full and complete development to its fundamental principles, and may easily be remedied by judicious legislation. The system itself is believed to be thoroughly rooted in the confidence and favor of the people.

The whole amount of money apportioned by the Superintendent of Public Instruction is \$1,055,000, of which \$800,000 was raised by a general tax, and \$255,000 from the income of the Common School and U. S. Deposit Funds. The whole amount expended for public schools is \$2,666,609.36, of which \$1,929,884.49 was applied to the payment of teachers, and \$47,657.06 for the district libraries. The whole number of district schools reported for the year is 11,798; and the whole number of children in the State of the age required to draw public money, 1,186,709. There have been 877,201 in attendance upon the district schools: in academies under the supervision of the Regents of the University, 37,406; 34,279 in unincorporated private schools, and 4,568

in colored schools. The average number of months during which the schools have been kept in the several districts is *eight*. The number of volumes in the district libraries is 1,571,270.

These results exhibit a gratifying increase in the number attending the district schools over the previous year. But it will still be seen that of the whole number of children of suitable age in the State there are 309,508, or nearly *one-fourth* of the whole number, who do not attend the district schools, and 233,255, or about twenty per cent. of the whole number, who do not attend any school. In view of the provision which has been made for the express purpose of securing the education of all, this proportion is much too large; and indicates some defect in the system pursued, because it does not completely attain the object at which it aims. That it does not, may be partly due to the mode of distributing the public funds. By the existing law, two-thirds of the public funds are distributed among the various districts of the State, in proportion to the whole number of children of a specified age within their limits, whether they attend the schools or not. If the apportionment of the public money were made to depend upon the number attending school and upon the regularity of their attendance, it would become the interest of the citizens generally to promote the regular attendance of all the children within their limits. An amendment of the law which should give it this direction would, I believe, tend to secure, more fully, the desired result. The law is defective, also, in that it fails to carry out fully and completely the principle on which it is based. Education in the district schools is not yet entirely free. If the cost of the schools in any district exceeds the amount of money received from the State, the deficiency is made up by a rate-bill, assessed upon those who send their children to school; and those who are unable to pay this assessment are relieved at the public expense, and thus become the recipients of public charity. The worst element of the old system is thus preserved, and the fundamental principle of the new law fails of its application in its most essential point. Education is still regarded as a matter of charity and not of right; and so long as this continues to be the case, in any degree or to any extent, it will detract from the full measure

f usefulness which the system is designed to secure. This evil in the system can be remedied, only by making the schools entirely free.

The attention of the Legislature should also be directed to measures for improving the character of the schools, for increasing their efficiency, and for elevating and extending the instruction which they impart. In a State where every citizen should take an active interest in the administration of public affairs, and may be called upon to perform the highest duties of public life, it is important that popular education be carried to the highest point which the means of the State will allow. It has been objected to the system of free schools, that people do not prize that which costs them nothing, and that relieving individuals from the expense of educating their children will diminish their interest in the subject and lead them to relax the vigilance which is essential to the highest excellence in the public schools. There is undoubtedly some force in the suggestion, though experience shows that it is much less than is sometimes supposed. But whether it be more or less, it is entitled to consideration, and provision should be made for obviating the objection in any system of education which the State may adopt. An obvious mode of doing this is by means of an active and intelligent supervision, by which the schools shall be regularly visited and their discipline examined by competent officers selected for that purpose. Various attempts have been made to supply this, but none of them have hitherto proved entirely successful. The agency provided by the present law is that of town superintendents: but it is found more expensive, and less efficient than is desirable, and gives rise to local dissensions, injurious to the successful working of the general system. Similar objections led to the abandonment of the system of county superintendents, a few years since. Unless the principle of visitation can be more effectually reconciled with public sentiment and made more economical and effective than it has been hitherto, the end which it is designed to secure must be sought by other means.

The connection of our common schools with the higher institutions of learning, with academies and colleges, making them

all, in fact, parts of one great system, could not fail to contribute essentially to their elevation, and bring the means of a thorough and complete education within the reach of all. In the city of New-York, where the free school system of the State has been, perhaps, more completely developed than in any other section, the benefits of substantially such a union are very conspicuous. A free academy has been added to the system, in which a large and competent corps of professors and tutors has been provided, a plan of study extending over five years and embracing all the branches of study pursued in the best colleges of the country has been adopted, scientific apparatus, libraries, and all the aids requisite for study have been furnished, and the general discipline and course of instruction have been made in all respects of the highest and most efficient character. Pupils who shall have attended any of the district schools for eighteen months, maintained throughout a good standing and character, and passed a satisfactory examination in certain specified studies, are admitted to the academy and entitled to the full enjoyment of its advantages, free of all expense. The academy has been in operation only three or four years, and the average number of its students is over four hundred. The attendance shows that its benefits are fully appreciated. But besides the thorough and most useful instruction conferred upon so large a number of the children and youth of the community, its most marked advantages are seen in the influence which it exerts upon the common schools, stimulating their teachers, trustees, inspectors and pupils alike to a generous rivalry, increasing their vigilance and their industry, and rendering them zealous and emulous in sending the best pupils to the academy, whose facilities for education are the prize for which all may alike contend. While I am aware that large cities afford facilities for such a system, which cannot be fully enjoyed in the rural districts, I think that something may be done throughout the State in this direction. A voluntary beginning, indeed, has already been made in some sections, by the establishment of union schools; and their success shows that the system is not wholly impracticable. I think that the time has come when higher purposes and broader views may be entertained in regard to our system of State education; and that our academies may be brought

into a more direct and immediate connection with the general plan, and thrown more widely and more freely open to the advantages they are intended to confer. The character of their instruction should be elevated, and its range extended; and they should be more completely furnished with apparatus and the means of imparting knowledge in those sciences which are of the most service in practical life. By making free admission to the thorough and complete education they would then afford, the reward of excellence in our district schools, a stimulus would be furnished which could not fail to be felt beneficially upon their discipline and character. It would be highly desirable to bring the colleges of the State into harmonious connection with such a plan, so that they might become more directly recognized as members of our general system of State education and as essential to its completeness and perfection.

The subject of the revision of our excise laws will demand, and I doubt not will receive your serious attention. To the practical operation of these laws, either through their inherent viciousness, or in consequence of their lax administration, is attributed no small proportion of the drunkenness which afflicts our land. Something of this is undoubtedly attributable to the non-enforcement of our laws, such as they are; but I will not withhold my conviction that the laws themselves are radically defective, and however faithfully administered, must be held justly responsible for the evils which they foster, and in many instances create.

If the consequences of intemperance were confined to its immediate victims, though even then the State would have an interest at stake, there might, perhaps, be less occasion for legislative action. But such is not the fact. Every interest of society which it is the province of government to protect, is immediately or remotely involved in these consequences.

Intemperance deprives the State of the productive energy of thousands of her citizens, and so far diminishes its wealth, impedes its enterprise, and militates against the common good. It is a fruitful source of the pauperism which imposes heavy bur-

dens upon industry and capital ; and its intimate relation to crime and consequently to the burdens which crime imposes upon us, is too obvious to escape your observation. If the purely moral aspects which it presents shall be deemed as not entering within the scope of your duties, its relation to taxation, and its producing causes is clearly within the province of legislation, and demands a degree of attention corresponding to the great issues which that relation involves.

The right to legislate in reference to the traffic in intoxicating liquors, will not be denied. Our present excise system is the fruit of such legislation. It has, in the process of time undergone many modifications, but its restrictive element, throughout all these changes, has been retained, in subservience to the original purpose of the system, viz: the prohibition of the traffic so far as the public good may demand and the constitutional limitations of the law-making power will permit. All restrictive legislation contains the germ of prohibition is, in fact, prohibition partially applied: so that what is termed prohibitory legislation, in regard to the liquor traffic, is only the extension of a principle endorsed as sound by successive Legislatures, and its impartial application to all. The object proposed by the founders of our State, when they incorporated the license system into its legislation, has not yet been attained; neither has the constitutional power of the Legislature in reference to it yet been exhausted. With the utmost desire to reach right conclusions in relation to this matter, and to guard against the assumption of powers not conferred by our fundamental law, I have found myself unable to come to any other result than this, that the legislative prohibition of the traffic in intoxicating drinks is not only demanded as a measure of protection to the health, the property, and the lives of our fellow-citizens, but that it is also distinctly indicated by the nature and purpose of civil government, and clearly within the limits of its constitutional powers. These opinions, diffidently entertained at first, have been wrought into convictions by a careful study of the limitations and duties of the law-making power, by judicial decisions, nearly or remotely affecting the principle involved, which have been had in the several States that prohibit the traffic

a question, and by the dicta of the Supreme Court of the United States, which cover the whole ground in controversy, and leave little room for either cavil or doubt.

That the good results hoped for from the legislation recommended, are legitimate to it, several of the New England States, especially Maine and Connecticut, furnish the most gratifying evidence. The steady diminution of crime and pauperism in the States referred to, with a consequent and corresponding reduction of taxation; and the new impulse given to almost all industrial pursuits by the transformation of those who were once a burden upon the State, into producers of wealth, constitute an argument in favor of the policy advocated, which, while it carries conviction to the statesman, will be no less appreciated by the multitude, unskilled though they may be in casuistry, but also undebased by appetite and unperverted by interest. If anything is to be learned from the example of other States, or to be deduced from our own increased experience, it should be made available to our use; and our legislation, upon all subjects, should keep pace with our advancing intelligence, always expressing the highest truth we have received, and reaching forward to the greatest good attainable.

I know of no subject that is likely to elicit your attention, that involves graver and more momentous interests, than the one thus presented for your consideration. That it is hedged about by difficulties, which demand the exercise of great prudence, and that it may not always be easy to reconcile conflicting interests with a nice adjustment of the scales of justice, I am not disposed to deny. But, guided by the purpose for which government was ordained, and keeping steadily in view the well-being of society, which always rests on a moral basis, these difficulties will disappear or be overcome; and you will be able, I trust, so to perfect the details of a bill as, on the one hand, to secure the suppression of a demoralizing traffic, and, on the other, to protect personal rights and give no just cause of complaint to those whose interests may be affected by the prohibitory legislation which the higher interests of community demand.

It is already intimated, that the efforts heretofore made to modify our usury laws, will be renewed with the present Legislature. The idea of free trade in money, pervades the commercial community. Money, it is urged, relieved from the restraints of usury laws, would become plentiful and cheap. It is worthy of remark, however, that the argument proceeds, generally, from the lender rather than the borrower of money. And does not this argument prove either too little or too much? If money is to be made free, should there not be equal freedom on the part of those who exchange their labor, and the products of labor for money? If an arbitrary value is given, by law, to coin and bank paper, why not also fix, by law, the standard value for labor, so that capital and labor may exist upon an equality? If you invest money, by legislation, with a power which, unrestricted, enables capital to oppress labor, do you not, while enfranchising capital, enslave labor? If, then, money is to be relieved from legislative restraint, should it not also be divested of the power conferred by legislation? While our laws stamp extrinsic values upon coin, may not laws, with equal justice and propriety, declare what rate of interest may be demanded and received for its use? And while legislation permits associations and individuals to circulate their paper promises to pay, as money, is it not clearly a duty to limit the rate of usance upon loans? Before declaring gold and silver, and their paper representative free, it would, in my judgment, be incumbent upon government, to assimilate money to the products of labor, by depriving gold, silver and bank notes of their artificial value. Then, and then only, may money be safely left, like the products of labor, to be regulated by the laws of trade.

The experience of older countries and older nations, where capital is more abundant, and seeks investment at moderate rates of usance, is referred to for evidence that free trade in money is beneficial to the community. This argument may become applicable to our condition when capital bears the same relation to enterprise and industry in this country that it does in Europe. But while the laboring and producing classes predominate so largely, it becomes us, instead of relaxing usury laws, to provide for their more rigid execution. Indeed, the most valid objection

to these laws is found in their lax administration. While respected by law-abiding citizens, and by cautious and timid usurers, they are disregarded by those who either hope to evade them, or who rely upon the honor or necessity of borrowers. A law either more or less stringent, against usury, if its enforcement could be ensured, would be productive of salutary effects.

The argument relied upon by the advocates of repeal is, that it will make money cheaper. But wherever this experiment has been tried, in our country, the opposite effect has been produced. Even in our commercial metropolis, where are found those who are most strenuous on this subject, that description of paper supposed to be exempted from the taint of usury, can be negotiated only at rates of interest varying from twelve to twenty-four per cent per annum. Borrowing at this onerous rate, leads to almost certain ruin. It may be answered that only in times of pressure are the rates of interest so high. But what, if the power to regulate the whole question resides with capitalists, is to bring down the rates? What is to make money more plentiful and cheap when those who possess it have the power to keep it scarce and dear? There is a given amount of capital among us, seeking investment. If our laws rigidly prohibited the taking of more than the legal rate of interest, that capital would be available for all legitimate business purposes. If loans are made reluctantly at legal rates, it is because usurious ones may be obtained, through the violation or evasion of the laws.

The Legislature of 1850, in accordance with a then prevalent sentiment, awakened by the avoidance of a large debt by an incorporated bank, under the plea of usury, passed a law restraining incorporations from pleading usury. This, in my opinion, was a change in the wrong direction. Evils have resulted from that change which are now seriously embarrassing the whole business community. Stimulating at once enterprise and cupidity, that enactment has prompted improvements far too formidable for our means. Impatient for railroads, our citizens, mistaking confidence for capital, have involved themselves and the country in a fearful aggregate of indebtedness. In their zeal to hasten the construction of railroads, time, circumstances, cost, and even their

value when completed, have often been disregarded. The question in too many instances seems to have been, not whether the roads were needed, or would pay when constructed, but whether bonds could be negotiated, at no matter what rate of discount. This policy has thrown millions of depreciated railroad securities upon the market, at home and abroad, and now the reaction leaves us with thousands of miles of unfinished roads, and a stringent money pressure, operating injuriously upon all the business interests of the State. The expediency, therefore, of repealing the law which restrains corporations from pleading usury, is respectfully suggested.

The policy of constructing railroads by mixing credit with capital, though to a degree useful and safe, has grown into an abuse. Mortgage bonds, when protected by a solid stock basis, may be properly resorted to for the completion of legitimate enterprises. But when, as in too many instances, companies issue bonds greatly exceeding the amount of capital paid in, the consequences cannot fail to prove injurious. The Legislature will, doubtless, impose such restrictions, in this respect, as experience suggests and the general welfare demands.

Connected with our railway system is another feature of great, but delicate interest. In their laudable desire to avail themselves of the advantages of such improvements, cities, villages and towns have loaned their credit to railroad companies. This is a power which should be sparingly granted by the Legislature, and cautiously exercised by the people. Though in some instances safe, yet, as a general rule, it is better to leave these projects to the enterprise and responsibility of individuals. The experience of the State, in this respect, is not at all calculated to commend the policy.

The board of brokers in the city of New-York, though self-constituted, and practically a close corporation, has grown to be a power in the State exerting a potent influence over all its monetary affairs, and seriously affecting the pecuniary interests of the people of our own and of other States. The standard of value for public securities, whether National, State, municipal or corporate, is fixed by that board. That there should be an as-

certained, reliable market value for such securities, is readily admitted; and brokers, in this, as in other countries, are the recognized agents for their sale.

But the *bona fide* transfer of stocks has ceased to be the only, or even the most considerable item of the business of brokers. Time sales of securities constitute by far the largest element in the daily operations of the board. Many of the stocks and bonds quoted daily, though intrinsically worthless, derive and maintain a factitious value, until by the adroitness and collusion of parties interested, the purposes of their creation are answered, and then, like their equally worthless predecessors, disappear, to give place to other schemes as dishonest in inception and as fraudulent in design. The services of brokers are frequently required, and from some of their number readily obtained, to depreciate the value of undoubted securities, or to advance the price of bubble shares.

These evils, however, would be comparatively limited in extent, and less alarming in tendency, but for that feature in the operations of the board to which I have alluded. Its practice of time sales of securities—a practice which now prevails to an alarming extent—fosters and stimulates a wide-spread spirit of gambling. This spirit pervades all classes. It is rife in our cities, and is abroad throughout the country. As in the case of lotteries, before their suppression, the temptation which promises large and easy gains, not only excites the hopes of the sanguine, but too frequently overcomes the caution of the prudent. Disastrous failures in legitimate business are often traceable to wild and reckless time operations in stocks. And most of the frauds and defalcations which impair the credit of monied institutions, and destroy confidence in the integrity of individuals, owe their origin to the same pernicious cause.

It is not alleged nor supposed that the board of brokers, as such, is composed of men of exceptionable character. On the contrary, it is the high personal respectability, and the influential position of the members of the board, that has so long secured toleration and impunity for transactions so vicious in principle and so destructive in practice.

In view, therefore, of an abuse of such magnitude, and of consequences so injurious, I deem it my duty to submit to the Legislature the propriety of passing a law so far reforming and restraining the traffic in public securities as to divest it of this pernicious feature. It is not sufficient that these transactions are, by our present laws, illegal. The evil can only be eradicated by providing adequate penalties. An association whose official influence is greater even than that of the government; that has the power to appreciate this, and depress that, class of securities, and to which so large a body of our citizens pay tribute, should be required so to conduct its operations as neither to retard the general welfare, nor relax the public morals.

There is reason to apprehend, unless some further and more efficient safeguards are thrown around the elective franchise, especially in our cities, that the ballot-boxes will cease to reflect the popular will. Each succeeding election discloses renewed cause of alarm, in combinations to defraud the people, and too frequently, as is feared, with the knowledge and co-operation of those whose official duty it is to preserve the integrity of the ballot-box. Such apprehensions are frequently expressed by those who insist that an investigation would furnish painful confirmation of the truth of all they fear. Heretofore the principal abuse of the elective franchise grew out of illegal voting. But it is alleged and believed that a great abuse exists now. That abuse has become so formidable, and is practiced so boldly, that a result in many of the election districts of the city of New-York is supposed to depend less upon the sentiments and intentions of the electors, than upon the corrupt action of their inspectors. Frauds of this nature strike at the foundation of our free institutions. A representative government cannot endure, even if it were worth preserving, when the integrity of the ballot-box comes to be habitually violated. I cannot doubt, therefore, that a subject of such vital importance will be regarded as worthy of your serious consideration.

A controversy is pending in our courts of law between this State and the State of Virginia, which, from the importance of the principles involved and the extent to which its decision will

affect the right of this State to regulate its own domestic affairs, requires your attention. The facts out of which it arose, are these:—In the month of November, 1852, one Jonathan Lemmon, a citizen of Virginia, brought into the city of New-York, eight persons whom, by the laws of Virginia, he had held as slaves, and with whom, as he alleged, he was on his way to Texas. They were brought, on a writ of *habeas corpus*, before one of the justices of the Supreme court, who decided, that by virtue of the laws of New-York, they were entitled to their freedom. They were accordingly discharged, and immediately removed to Canada, thus placing themselves beyond the jurisdiction of both our State and our federal laws. The sum of \$5,000 was raised by voluntary contribution among the citizens of New-York, to indemnify Mr. Lemmon for his loss. So far as individual interests were involved, although an appeal from the judge's decision had been taken on behalf of the claimant, the case would have been terminated by these proceedings. But the Governor of Virginia, in a special communication, dated December 17, 1852, called the attention of the Legislature of that State to this decision, which he characterised as “contrary to the spirit of all law, as opposed to the established principles which regulate intercourse with foreign nations, and at war with the relations which should subsist between the sister States of this Union, as well as at war with the spirit if not the letter of the Constitution itself.” The Governor further recommended that provision should be made by the State, for the efficient prosecution of the appeal which had been taken, and for “such other judicial proceedings as might be found necessary and proper for a satisfactory adjustment of the important question involved in this case.” In accordance with this recommendation, the Legislature of Virginia subsequently directed the Attorney General of that State to prosecute the appeal, with such other counsel as the Executive might think proper to associate with him. That appeal has not yet been heard, but will probably be argued at the next general term of our Supreme court.

The language of the law of this State,—which declares that “no person held as a slave shall be imported, introduced or

“brought into this State on any pretence whatever,” and that “every such person shall be free,”—is so explicit as to obviate all doubt in regard to its meaning. Its operation can be resisted, therefore, only upon the ground that it is contrary to the Constitution of the United States, or to the law of international comity. The law of nations would undoubtedly permit the citizens or subjects of one country to pass through another country with their property,—but only with property recognized as such by the same law. Slaves are property only by virtue of local law:—where that ceases to have jurisdiction, they cease to be property, and cannot be recognized or treated as such. If the decision of this question rested, therefore, upon the principles of international law, which is the only rule of international comity, I see nothing hostile to those principles in the law of this State, which applies to this case.

But the several States of this Union do not hold to each other the relation of independent powers. The law which regulates their intercourse and controls their conduct towards each other, is the Federal Constitution. By the provisions of that instrument, every State is left entirely free to make such laws in reference to its local institutions as it may see fit. To this there is but one exception. It declares that “no person held to service or “labor in one State, under the laws thereof, *escaping* into another, “shall, in consequence of any law or regulation therein, be discharged from such service or labor.” Every State is thus prohibited from making any law or regulation by which fugitives from service, which is due under the laws of the State from which they may escape, shall be discharged from that service. The State of New-York has always respected this prohibition, as well as the right of Virginia and of every other State to legalize and regulate Slavery within their own jurisdiction. But she claims equal sovereignty over her own domestic institutions, and the same right of declaring upon what conditions slavery may be allowed, or whether it shall be allowed at all, within her limits. If this right be denied her, she will be deprived of the most essential attribute of sovereignty—that of deciding upon the civil condition and securing the personal rights of those who may be brought under the protection of her laws.

It seems to me highly important that a question which involves, to so great an extent, the dignity and the rights of this State, should not be decided without a full and careful examination. At present no provision exists for defending the law of this State against the State of Virginia, either in our own courts or in the Federal courts to which the case will undoubtedly be carried if a decision against the law should not otherwise be obtained. I recommend, therefore, the adoption of a resolution directing the Attorney General, together with such counsel as may be associated with him, to defend the rights and the interests of this State in the appeal that has been taken.

Having thus briefly brought to your notice those domestic interests which will demand your attention, it only remains for me to speak of our relations to the Federal Union, of which the State of New-York, by its population and its wealth, constitutes an important part. The powers and duties of the general government are defined and limited by the Constitution, and relate to those objects only in which all the members of the Confederacy have a common interest. But its action not unfrequently affects our domestic prosperity, as well as our political rights, and may, therefore, very properly be made the subject of your review.

It is to be regretted that the Executive veto should have been again interposed to prevent the necessary improvement of the great channels of internal commerce; for not only would their unimpeded navigation constitute a source of material wealth, but would also give strength and durability to the bonds of our National Union. The States, by relinquishing the power of levying taxes upon commerce, have divested themselves of the ability to do this work; the duty of its performance, therefore, by the general government, seems obvious and imperative.

Many branches of domestic industry are languishing for lack of that protection which proper tariff regulations would afford, and which, had they been seasonably adopted, would have averted much of the distress consequent upon a paralysis of business, which now pervades the country.

Congress, at its last session, passed an act establishing governments for that portion of the territory acquired from France in 1803, which remained unorganized ; and in that act was embodied a repeal of the law, generally known as the Missouri compromise, by which slavery was prohibited from that territory forever. This prohibition grew out of the agitation in reference to the admission of Missouri as a slave state, and was supposed to involve concessions from both parties to the controversy. By the terms of the compact then entered into—for such it was, in fact, whatever it might have been in form—Missouri came into the Union with her slavery, and all territory south of the parallel of 36 degrees 30 minutes was left without any restriction as to the character of its institutions: while on the other hand it was solemnly covenanted that all north of that parallel should be forever exempted from the curse of slavery. The act of Congress embodying this compact, though doubtless subject to the control of the legislative power, carried with it, both in its character and in the circumstances under which it was adopted, a solemn pledge of permanency. It was the result of a conflict between antagonistic interests and principles ; and though, in my judgment, the North conceded far too much, I cannot doubt that both sections were influenced by a patriotic desire to preserve the integrity of the Union and the peace of the country.

The compromise was, at the time, eminently satisfactory to the South, as well it might be, for the benefits she was to derive from it were positive and immediate, while those which were to result to the North were remote and contingent. Still, because it averted seeming dangers, and involved a principle of conciliation that promised to strengthen the bands of the Confederacy, it was acquiesced in by the North ; and for more than thirty years had commanded the respect and obedience of all sections and of all parties. Its repeal, therefore, has been very generally, and not unjustly, regarded as a violation of good faith on the part of the South, and a proof that our generous confidence in its chivalrous honor had been misplaced. The gross injustice of the transaction is aggravated by the fact, that the concession to freedom was not withdrawn, until the consideration for which it had been granted

had been fully enjoyed. Besides Missouri, Arkansas had been organized out of the territory, and admitted as a slave state into the Union, and slavery had taken possession of the whole of the territory south of the dividing parallel, before the compact was repudiated and the law repealed.

By this act, all the territory of the United States, with the exception of Oregon, is open to the extension of slavery. Against that extension, the State of New-York has always protested. In 1820, and in 1850, and whenever the subject has been presented for legislative action, she has asserted the right and the duty of that body which is charged by the Constitution with the responsibility of making "all needful rules and regulations" for the territory of the United States, to prohibit the extension of slavery and the increase of its political power. The Missouri compromise, which allowed its introduction into the territory south of thirty-six degrees thirty minutes, was passed against her convictions of justice and of sound policy; but she has ever remained faithful to its provisions, and hostile to its infringement or repeal. She had a right, therefore, to expect from other States equal fidelity to the compact which it involved; and she has a right, and it is her duty, to demand a restoration of the Missouri line, as one beyond which slavery shall not be permitted to pass; or rather, as required both by the principle which called our nation into being, and by the law upon which is conditioned its highest development,—the total exclusion of that anomalous institution from all territory under the jurisdiction of the general government. We have no wish, nor do we claim the right, to interfere with slavery in the States; but in no wise do we transcend our prerogative, as a member of the confederacy, when we insist that the Federal Government shall divest itself of all connection with, and all responsibility for, an institution so repugnant to the general sense of justice, and so hostile to the harmony and ultimate prosperity of the country.

It cannot have escaped the notice of the attentive observer of our governmental policy, that it has, for many years, departed widely from that indicated by the founders of the Republic—viz: the recognition of slavery as an anomalous institution, repugnant

to all their cherished ideas of the rights of men, and consequently to be localized, restricted to the narrowest possible limits, and gradually extirpated by the growth of those principles which form the basis of our political edifice. It was an evil day for both North and South when this policy was departed from, and the powers of the General Government were perverted to the extending and nationalizing of slavery ; to the upbuilding of an institution purely local in its character, at the expense of the interests of freedom, which should be regarded as dominant and universal. It is a just cause of complaint, on the part of New-York, that discriminations should be made, in our National legislation, which tend to embarrass our industrial enterprises, and to deprive us of that relative political influence that of right belongs to us, by concessions to the slave states which neither comity nor sound statesmanship, nor a true regard for the interests of our country as a whole, can for a moment sanction. Thus have been engendered sectional divisions, and sectional interests have been stimulated into antagonism, and ill-feeling unworthy of our fraternal character engendered ; all of which might have been avoided had the Federal Government adhered to its original policy, as good faith and justice to all demanded. However deeply the patriot may deplore the agitations growing out of the slavery question, and the alienation of feeling consequent thereupon, it is in vain to expect that they can be allayed by any legislation that ignores the moral sentiment of our people, and ruptures long-existing compacts ; or by anything that falls short of restoring our government to its original policy upon that question.

I have no hesitation, therefore, in expressing the belief that the peace and permanent welfare of the whole community, as well as the political rights of this State, demand the restoration of that prohibition of slavery in territories which was embodied in the Missouri compromise, and repealed by Congress at the last session ; and I recommend to the Legislature the adoption of such measures as may tend most effectually to the promotion of that result, to the protection of the political rights of this State against the further increase of slave representation in either branch of Congress, and to the restoration of that generous confidence and

mutual regard which are essential to the stability of that Union, upon which our respectability abroad and our domestic welfare must always largely depend.

There is much, in a review of the interests of our State, to call forth thankfulness for its present and inspire large hopes for its future. Its destinies are, to some extent, committed to our hands. While endeavoring to discharge our respective duties with constant reference to the prosperity of the commonwealth, let us rely for aid upon Him who holds in His hands the destinies of nations and individuals, and, seeking His favor and guidance, secure the benediction pronounced upon that people whose God is the Lord.

MYRON H. CLARK.

ALBANY, *January 2, 1855.*

